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MAR 25 2003

In re Application of  
Chiussi, et al.  
Application No. 10/010,582  
Filed: October 13, 2001  
Attorney Docket No. 22-1-10

**OFFICE OF PETITIONS**

**DECISION ON PETITION**

This is a decision on the petition under 37 CFR 1.137(b) filed March 17, 2003, to revive the above-mentioned application.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition" under 37 CFR 1.137(b)."

This application became abandoned on March 8, 2002, for failure to timely file an appropriate response to the "Notice of Missing Parts of Nonprovisional Application" (the "Notice") mailed January 7, 2002, which set a shortened period for reply of two (2) months from its mailing date. No extension of time for reply available to petitioner under 37 CFR 1.136(a) was obtained; the application became abandoned on March 8, 2002.

Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

- (1) the required reply, unless previously filed. In a non-provisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee, or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.
- (2) the petition fee as set forth in 37 CFR 1.17(m);
- (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition does not satisfy the requirements of items (1) above.

The Notice required that petitioner remit \$130.00 for the surcharge. This amount was not remitted, nor was an authorization to charge a deposit account for this kind of fee found among the application papers. With any renewed petition filed, petitioner must remit the surcharge or provide a deposit account to which the surcharge can be charged.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents  
Box DAC  
Washington, D.C. 20231

By facsimile: (703) 308-6916  
Attn: Office of Petitions

By hand: Office of Petitions  
2201 South Clark Place  
Crystal Plaza 4, Suite 3C23  
Arlington, VA 22202

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0010.

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